APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,284	12/29/2000	Min Zhu	M-8861 US	9176

EXAMINER	
SHAW, JOSEPH D	

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Philip W. Woo
c/o SIDLEY AUSTIN BROWN & WOOD LLP
555 CALIFORNIA STREET
SUITE 5000
SAN FRANCISCO, CA 94104-1715

ART UNIT	PAPER NUMBER
2141	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No. 09/752,284	Applicant(s) ZHU ET AL.	
	Examiner Joseph D Shaw	Art Unit 2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 December 2000*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 September 2001* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *4*.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Double Patenting

1.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees.. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fèd. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

      A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application.   See 37 CFR 1.130(b).

      Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer.   A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2.   Claims 1, 6, 11, and 16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 7, and 10 of U.S. Patent No. 6,567,813.   Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitation of the communicating employing a secure protocol on a dedicated network is an obvious modification. Distributed and parallel computing environments frequently employ logical processes on separate nodes communicating over a dedicated network and communications via a secure protocol is well known in the art to ensure information is transmitted securely.

3.   Claims 1, 6, 11, and 16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 9, and 13 of copending Application No. 09/752,376, claims 1, 7, 13, and 19 of copending Application No. 09/751,595, and claims 1, 5, 9,

and 13 of copending Application No. 09/751,519. Although the conflicting

claims are not identical, they are not patentably distinct from each other

because employing a secure protocol on a dedicated network is an obvious

modification. Distributed and parallel computing environments frequently

employ logical processes on separate nodes communicating over a dedicated

network and communications via a secure protocol is well known in the art to

ensure information is transmitted securely.

This is a _provisional_ obviousness-type double patenting rejection

because the conflicting claims have not in fact been patented.

Specification

4. The abstract of the disclosure is objected to because the abstract

makes no reference to claimed subject matter. In particular, the claimed

subject matter is related to partitioning collaboration functions into sub-

functions and communicating amongst the sub functions securely. The abstract

appears to be directed to a fault-tolerant collaborative computer system.

Correction is required. See MPEP § 608.01(b).

Drawings

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must

show every feature of the invention specified in the claims. Therefore, the

secure protocol, encryption, compression, and TCP/IP messages employing a

proprietary message syntax must be shown or the feature(s) canceled from the

claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in

reply to the Office action to avoid abandonment of the application. The

objection to the drawings will not be held in abeyance.

Claim Objections

6.   Claims 4, 9, 14, and 19 are objected to because of the following

informalities:

    a.   Claim is made to a TCP/IP message that employs a proprietary

    message syntax. This is a contradiction. A TCP/IP message has a well-

    defined message format that does not employ proprietary message formats

    for data communication. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

    The specification shall contain a written description of the invention, and
    of the manner and process of making and using it, in such full, clear,
    concise, and exact terms as to enable any person skilled in the art to
    which it pertains, or with which it is most nearly connected, to make and
    use the same and shall set forth the best mode contemplated by the inventor
    of carrying out his invention.

8.   Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as

failing to comply with the enablement requirement. The claim(s) contains

subject matter which was not described in the specification in such a way as

to enable one skilled in the art to which it pertains, or with which it is

most nearly connected, to make and/or use the invention.

    b.   As per claims 1, 6, 11, and 16, while the specification teaches

    that the employed high-speed link offers higher security, the

    specification fails to teach secure protocols in general.

    c.   As per claims 2, 5, 7, 10, 12, 15, 17, and 20, the specification

    fails to teach the use of encryption.

    d.   As per claims 3, 5, 8, 10, 13, 15, 18, and 20, the specification

    fails to teach the use of compression.

    e.   As per claims 4, 9, 14, and 19, while the specification teaches a

    proprietary   protocol   transported   over   TCP   connections,   the

specification fails to teach TCP/IP messages employing a proprietary

message syntax.

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis

for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the
> art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

10.   Claims 1, 4, 6, 9, 11, 14, 16, and 19 are rejected under 35 U.S.C.

103(a) as being unpatentable over Murphy et al. (6,185,695).

f.   As per claim 1, Murphy teaches a distributed system

(collaborative computing environment) comprising:

partitioning a collaboration function into sub-functions (kernel

and user domains; col. 3, lines 54-62);

assigning at least one of said sub-functions to each of a

plurality of logical processes (each node has one or more domains; Fig.

1; col. 3, lines 54-62);

associating a respective management process with each of said

plurality of logical processes, said logical processes configured so

that each said logical process is capable of communicating with every

other said logical process through said respective management process

(objects can be invoked by a thread within a domain in another node;

col. 4, lines 10-14; object request broker (ORB) handles remote

procedure calls for objects requested in a remote domain, on the same

node or different nodes; col. 4, lines 22-30);

communicating between said logical processes using said respective management process (objects can be invoked by a thread within a domain in another node; col. 4, lines 10-14; object request broker (ORB) handles remote procedure calls for objects requested in a remote domain, on the same node or different nodes; col. 4, lines 22-30); and

monitoring said respective management processes with a single supervisor process (replica manager system process will detect failures when nodes are unresponsive and initiates a chain of events to have client nodes try a secondary server to complete the object invocation request; col. 4, line 56 – col. 5, line 9).

However, the Murphy invention does not explicitly teach the communications being employed by a secure protocol over a dedicated network. "Official Notice" is taken that both the concept and advantages of both secure protocols and dedicated networks were well known and expected in the art at the time of the invention.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Murphy invention to employ a secure protocol over a dedicated network for communications because secure protocols prevent unauthorized individuals from hijacking data that is being communicated and a dedicated networks ensures that all resources on the network are being employed for the communication of the data and not being wasted performing other activities.

g.   Claims 6, 11, and 16 recite similar limitations to claim 1 and are rejected on the same grounds as claim 1.

h.   As per claim 4, Murphy discloses the invention modified above. However, the modified invention does not explicitly teach the secure protocol comprising TCP/IP messages employing a proprietary message syntax.   "Official Notice" is taken that both the concept and advantages of both TCP/IP and proprietary message syntaxes were well known and expected in the art at the time of the invention.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include TCP/IP messages and a proprietary message syntax in the modified Murphy invention because TCP/IP is a well known and commonly used transport protocol for data communication and proprietary message syntaxes ensure that only people authorized by the developer to use the proprietary messages can understand the messages.

i.   Claims 9, 14, and 19 recite similar limitations to claim 4 and are rejected on the same grounds as claim 4.

11.   Claims 2-3, 5, 7-8, 10, 12-13, 15, 17-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy et al. (6,185,695), as applied to claims 1, 6, 11, and 16 above, and further in view of Derfler et al. (How Networks Work).

j.   As per claim 2, Murphy discloses the invention modified above. However, the modified invention does not explicitly teach the secure protocol comprising encryption.   Derfler teaches using encryption in data communications (page 207, paragraph 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the encryption taught by Derfler

in the modified Murphy invention because encryption, in practical

terms, keeps all data communicated between networked devices totally

private, as taught by Derfler (page 207, paragraph 1).

k.   Claims 7, 12, and 17 recite similar limitations to claim 2 and

are rejected on the same grounds as claim 2.

l.   As per claim 3, Murphy discloses the invention modified above.

However, the modified invention does not explicitly teach the secure

protocol comprising compression. Derfler teaches using compression in

data communications (page 207, paragraph 1).

It would have been obvious to one of ordinary skill in the art at

the time of the invention to include the compression taught by Derfler

in the modified Murphy invention because compression acts as a

primitive form of encryption, wherein it takes a lot more effort to

hijack compressed data, as taught by Derfler (page 207, paragraph 1).

m.   Claims 8, 13, and 18 recite similar limitations to claim 3 and

are rejected on the same grounds as claim 3.

n.   As per claim 5, Murphy discloses the invention modified above.

However, the modified invention does not explicitly teach the secure

protocol comprising encryption and compression. Derfler teaches using

encryption and compression in data communications (page 207, paragraph

1).

It would have been obvious to one of ordinary skill in the art at

the time of the invention to include the encryption and compression

taught by Derfler in the modified Murphy invention because encryption,

in practical terms, keeps all data communicated between networked devices totally private and compression acts as a primitive form of encryption, wherein it takes a lot more effort to hijack compressed data, as taught by Derfler (page 207, paragraph 1).

However, the modified invention does not explicitly teach the secure protocol comprising a proprietary message syntax. "Official Notice" is taken that both the concept and advantages of proprietary message syntaxes were well known and expected in the art at the time of the invention.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a proprietary message syntax in the modified Murphy invention because proprietary message syntaxes ensure that only people authorized by the developer to use the proprietary messages can understand the messages.

o.   Claims 10, 15, and 20 recite similar limitations to claim 5 and are rejected on the same grounds as claim 5.

Conclusion

12.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D Shaw whose telephone number is 703-305-0094. The examiner can normally be reached on Monday - Thursday and alternate Fridays, 7am - 4pm.

13.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 703-305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

14.   Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.   Status information for published applications may be obtained from either Private PAIR or Public PAIR.   Status information for unpublished applications is available through Private PAIR only.   For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph Shaw
Examiner
AU 2141

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER